

OCT 21 2004

Docket No.: 2336-184

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

KIM, Jong Sam *et al.*

U.S. Patent Application No. 10/606,378

Filed: June 26, 2003

:
:
: Confirmation No. 2824
:
: Group Art Unit: 2812
:
: Examiner: Michael Luhrs

For: MICRO-ACTUATOR, VARIABLE OPTICAL ATTENUATOR PROVIDED WITH
MICRO-ACTUATOR AND METHOD FOR MANUFACTURING THE SAME

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

By Official Action mailed September 21, 2004, restriction to one of the following inventions is required:

- Invention I: Claims 1-7, drawn to device (optical attenuator), classified in class 385, subclass 140.
- Invention II: Claims 8-16, drawn to method (of making MEM, SOI substrate), classified in class 438, subclass 50.
- Invention III: Claims 17, drawn to device (micro-actuator), classified in class 310, subclass 309.

In response, Applicants hereby elect Invention I, upon which claims 1-7 are readable.

The election is made *with traverse* because the search and examination of the entire application can be made without serious burden. Inventions II and I/III are related as process of making and product made. In the relevant art, references often describe both the device's structure

Application No.: 10/606,378Docket No.: 2336-184

and manufacturing method, as will be apparent to the Examiner upon conducting a search for prior art. Therefore, Inventions II and I/III can be covered in a single search. Accordingly, Applicants respectfully submit that the search and examination of the entire application can be made without serious burden on the Examiner.

The election is made *with traverse* further because the Examiner's Restriction Requirement has failed to establish that Invention I and III are distinct. The Restriction Requirement is thus improper and should be withdrawn or at least rephrased.

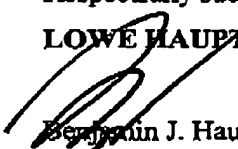
In view of the above, withdrawal of the Restriction Requirement and consideration of all claims pending in the instant application are believed appropriate and therefore courteously solicited.

Early examination on the merits is courteously solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP


Benjamin J. Hauptman
Registration No. 29,310

USPTO Customer No. 22429
1700 Diagonal Road, Suite 310
Alexandria, VA 22314
(703) 684-1111 BJH/KL/tlh
(703) 518-5499 Facsimile
Date: October 21, 2004

CERTIFICATION OF FACSIMILE TRANSMISSION
I HEREBY CERTIFY THAT THIS PAPER IS BEING FACSIMI-
LE TRANSMITTED TO THE PATENT AND TRADEMARK OFFICE
ON THE DATE SHOWN BELOW

Tiara L. Hill
TYPE OR PRINT NAME OF PERSON SIGNING CERTIFICATION
Tiara L. Hill 10-21-04
SIGNATURE DATE
703-872-9306
FACSIMILE NUMBER